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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/399,065	09/18/1999	JEREMY A. KENYON	41018.P004	1823

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EXAMINER

NAJJAR, SALEH

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 09/03/2002

20

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/399,065	KENYON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Saleh Najjar	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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1. This action responds to the amendment submitted on May 29, 2002. Claims 1, 12, 23, 26, and 29 were amended. Claims 1-38 are pending examination. Claims 1-38 represent a method and system directed toward dynamic scalable multi-media content streaming.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CAR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-10, 12-21, and 23-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Li et al., U.S. Patent No. 6,345,279.

Li teaches the invention as claimed including a method and apparatus for adapting multimedia content for client devices (see abstract).

As to claim 1, Li teaches a client computer system including a method of operation comprising:

determining operating characteristic value(s), by the client system, for at least one operating characteristic of the client computer system (see figs. 3-7; col. 6, Li

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teaches determining the client characteristics including several client characteristics);  
and

adaptively requesting, by the client system, streaming of model data from a remote content providing server, adjusting said requesting based at least in part on the determined operating characteristic value(s) of the at least one operating characteristic of the client computer system (see figs. 3-7; col. 4-6, Li teaches inserting the client profile that includes the capabilities and resources of the client into the request header).

As to claim 2, Li teaches a client computer system including a method of operation as in claim 1 above, wherein the at least one operating characteristic comprises one or more operating characteristics selected from a group consisting of communication bandwidth, processor power, availability of memory, availability of swap space, memory and bus speed, availability of video memory, availability of digital signal processing for audio decompression, and availability of graphics acceleration (see col. 6).

As to claim 3, Li teaches a client computer system including a method of operation as in claim 1 above, wherein said determining is performed as an integral part of an installation of a multi-media content player, and said adaptively requesting streaming of model data is performed by said multi-media content player (see col. 6, 12, Li discloses that the process 300 for adaptively requesting multimedia is instantiated at the client).

As to claim 4, Li teaches a client computer system including a method of operation as in claim 1 above, wherein said model data comprise of data selected from a group consisting of geometry data, lighting data, coloring data, texturing data, animation data, and audio data (see col. 6).

As to claim 5, Li teaches a client computer system including a method of operation as in claim 1 above, wherein said adaptively requesting of streaming of model data comprises adaptively requesting the remote content providing server for different versions of the model data based at least in part on the determined operating characteristic value(s) of the at least one operating characteristic of the client computer

system (see figs. 1-3; col. 4-6, Li discloses that different versions of data is returned based on client capabilities).

As to claim 6, Li teaches a client computer system including a method of operation as in claim 1 above, wherein the method further comprises monitoring at least one performance indicator for the client computer system (see col. 4-6, Li teaches that request headers are updated with the field for client resources and capabilities).

As to claim 7, Li teaches a client computer system including a method of operation as in claim 6 above, wherein said at least one performance indicator comprises one or more selected from a group consisting of bandwidth utilization, CPU utilization, memory utilization, memory swapping, cache hit rate, and audio frames drop rate (see col. 6).

As to claims 8-9, Li teaches a client computer system including a method of operation as in claim 6 above, wherein said adaptively requesting of streaming of model data comprises switching to requesting the remote content providing server for higher or lower precision versions of the model data, responsive to indicator values of the monitored at least one performance indicator (see col. 6-12, Li discloses that a higher or lower versions of the multimedia object is returned based on the client characteristics).

As to claim 10, Li teaches a client computer system including a method of operation as in claim 1 above, wherein the method further comprises automatically synchronizing rendering of the received model data in accordance with the timeliness of the receipt of the model data (see col. 4-6).

Claims 12-21 do not teach or define any new limitations above claims 1-10 and therefore are rejected for similar reasons.

As to claim 23, Li teaches a computer server including a method of operation comprising:

storing multiple versions of model data tailored for different operating environments differentiated in accordance with values of at least one operating characteristic of a remote requesting client computer system (see figs. 1-7; col. 4-6, Li discloses that different versions of the multimedia data are stored at the server);

accepting requests from the remote requesting client system for said model data that adaptively includes version selection designations, with the inclusion being adjusted, by the remote requesting client computer system, based at least in part on the operating characteristics of the remote requesting client computer system (see col. 4-6); and

streaming the requested versions of the model data to the remote requesting client computer system, responsive to the accepted requests (see col. 4-6).

Claims 24-34 do not teach or define any new limitations above claims 1-10, 12-21, and 23 and therefore are rejected for similar reasons.

As to claim 35, Li teaches a client computer system including a method of operation as in claim 1 above further comprising determining a single composite operating characteristic value based on the determined operating characteristic values of the at least one operating characteristic (see col. 4-8).

As to claim 36, Li teaches a client computer system including a method of operation as in claim 35 above wherein said determining comprises computing a weighted index that weighs relative importance of said at least one operating characteristic (see col. 4-8).

Claims 37-38 do not teach or define any new limitations above claims 35-36 and therefore are rejected for similar reasons.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al.

Li teaches the invention substantially as claimed including a method and apparatus for adapting multimedia content for client devices (see abstract).

As to claim 11, Li teaches a client computer system including a method of operation as in claim 10 above.

Li fails teach the limitation wherein said automatic synchronization of rendering of the received model data comprises dropping audio data in proportional to the amount of the time the audio data arrived late.

Official Notice is taken that the concept and advantages of dropping audio data frames that arrived too late with respect to its sequence is old and well known in the data communication art. It would have been obvious to one of ordinary skill in the art to apply the concept of dropping audio data frames in Li to allow efficient synchronization of downloaded multimedia data.

Claim 22 does not teach or define any new limitations above claim 11 and therefore is rejected for similar reasons.

6. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Method and system for displaying an application on a variety of client devices in a network by Shaw et al., U.S. Patent No. 6,104,392.
- Image transfer protocol in progressively increasing resolution by Percival et al., U.S. Patent No. 5,991,816.
- Providing services suitable to an end user request based on characteristics of a request by Toyouchi et al., U.S. Patent No. 6,006,251.
- System and method for negotiating functions and features by Chen et al., U.S. Patent No. 6,154,768.
- Data set selection based on user profile by Reese, U.S. Patent No. 6,374,237.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §

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706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AN MENG AI, can be reached on (703) 305-9678. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The fax number for the After-Final correspondence/amendment is (703) 746-7238. The fax number for official correspondence/amendment is (703) 746-7239. The fax number for Non-official draft correspondence/amendment is (703) 746-7240.



Saleh Najjar

Primary Examiner / Art Unit 2154